

MONTANA LEGISLATIVE HISTORY

Chapter 95 19 79

Bill H 279 S _____ Original bill & history c

H. Committee on Agriculture, L & I

Hearing Date(s) 1-19 ✓ c

2-9 ✓ c

_____ c

_____ c

Date Out 2-9 ✓ c

S. Committee on Agriculture, L & I

Hearing Date(s) 2-15 _____ c

2-28 _____ c

_____ c

_____ c

out 2-28

nothing
in
Senate
Journal

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 HOUSE BILL NO. 279
2 INTRODUCED BY Colin Conroy
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK
5 FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;
6 AND AMENDING SECTION 30-2-316, MCA."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 30-2-316, MCA, is amended to read:
10 "30-2-316. Exclusion or modification of warranties.
11 (1) Words or conduct relevant to the creation of an express
12 warranty and words or conduct tending to negate or limit
13 warranty shall be construed wherever reasonable as
14 consistent with each other; but subject to the provisions of
15 this chapter on parol or extrinsic evidence (30-2-202)
16 negation or limitation is inoperative to the extent that
17 such construction is unreasonable.
18 (2) Subject to subsection (3), to exclude or modify
19 the implied warranty of merchantability or any part of it
20 the language must mention merchantability and in case of a
21 writing must be conspicuous, and to exclude or modify any
22 implied warranty of fitness the exclusion must be by a
23 writing and conspicuous. Language to exclude all implied
24 warranties of fitness is sufficient if it states, for
25 example, that "There are no warranties which extend beyond

1 the description on the face hereof."
2 (3) Notwithstanding subsection (2):
3 (a) unless the circumstances indicate otherwise, all
4 implied warranties are excluded by expressions like "as is",
5 "with all faults" or other language which in common
6 understanding calls the buyer's attention to the exclusion
7 of warranties and makes plain that there is no implied
8 warranty; and
9 (b) when the buyer before entering into the contract
10 has examined the goods or the sample or model as fully as he
11 desired or has refused to examine the goods there is no
12 implied warranty with regard to defects which an examination
13 ought in the circumstances to have revealed to him; and
14 (c) an implied warranty can also be excluded or
15 modified by course of dealing or course of performance or
16 usage of trade; and
17 ~~(d) in sales of cattle, hogs, sheep and horses, there~~
18 ~~is no implied warranties, as defined in this chapter, that~~
19 ~~the cattle, hogs, sheep, or horses are free from sickness or~~
20 ~~disease.~~
21 (4) Remedies for breach of warranty can be limited in
22 accordance with the provisions of this chapter on
23 liquidation or limitation of damages and on contractual
24 modification of remedy (30-2-718 and 30-2-719)."

-End-

-2-

HB 279
INTRODUCED BILL

FORTY-SIXTH

LEGISLATIVE SESSION

COMMITTEE ON AGRICULTURE

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
HB 5	1/15	1/22, 24	1/24				1/24		
HB 10	1/19	1/24	1/24				1/24		
HB 101	2/20	3/2, 5	3/5 AS AMENDED	BE TABLED (taken from committee 3/15 to 2nd reading)					
HB 134	1/25	1/31	1/31				1/31		
HB 152	2/3	2/9	2/23	Indefinitely Postponed					
HB 218	1/27	2/2	2/2				2/2		
HB 231	2/3	2/9	2/23				2/23		
HB 251	2/7	2/28, 3/5	3/5 AS AMENDED	BE TABLED (taken from committee 3/6 to 2nd reading)					
HB 278	2/22	3/2	3/2				3/2		
HB 279	2/15	2/28	2/28				2/28		
HB 377	2/14	2/28	2/28				2/28		
HB 521	2/22	3/7	3/7					3/7	
HB 577	2/22	3/2, 5	3/2				3/2		
HB 589	2/22	3/7	3/7				3/7	Consent Calendar	
HB 590	2/22	3/2, 5	3/5					3/5	
HB 735	2/22	3/5	3/5				3/5		

AGRICULTURE COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 218	REQUIRING THE DEPARTMENT OF LIVESTOCK TO COLLECT, FROM THE PROPER OWNERS, EXPENSES INVOLVED IN THE HOLDING AND RETURN OF ESTRAY ANIMALS.	1-17-79	Hirsch	1-22-79	Do Pass As Amended	1-22-79
HB 231	ALLOWING LANDOWNERS UPON WHOSE LAND A FACILITY UNDER THE MONT MAJOR FACILITY SITING ACT IS PROPOSED TO BE LOCATED TO REQUIRE A REASONABLE ANNUAL PAYMENT AS COMPENSATION FOR USE OF THAT LAND.	1-17-79	Ernst	1-22-79	Subcommittee 1-24-79 Do Pass As Amend	1-29-79
HB 251	TO REQUIRE SUPPLIERS OF FRESH MEAT TO LABEL FOREIGN MEAT AND TO RAISE THE PENALTY FOR FAILURE TO PROPERLY LABEL FOREIGN MEAT OR PROVIDE REQUIRED INFORMATION.	1-18-79	Johnson	1-24-79	Do Pass as Amend	1-26-79
HB 271	REQUIRE THE STATE TO PAY INDEMNITY AT FULL APPRAISED VALUE IF THE DEPT. OF LIVESTOCK REQUIRES DESTRUCTION OF A HERD BECAUSE OF BRUCELLA LOSIS INFECTION; STATING THE CONDITIONS FOR PAYMENT OF THE INDEMNITY AND APPROPRIATING FUNDS FOR THE PAYMENT OF INDEMNITY.	1-19-79	Ellis	1-24-79	Do Not Pass	2-7-79
HB 278	TO PROVIDE AN EXCEPTION TO BRAND INSPECTIONS FOR LIVESTOCK TRANSFERS WHERE THE TRANSFERS RESULT FROM A CHANGE IN THE FORM OF A FAMILY RANCHING ENTITY; ESTABLISHING THE CONDITIONS FOR THE EXCEPTION.	1-19-79	Bardanouve	1-29-79	Do Pass As Amend	1-29-79
HB 279	TO EXEMPT LIVESTOCK FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE.	1-19-79	Ellerd	2-9-79	Do Pass	2-9-79

HOUSE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE

February 9, 1979

The meeting was called to order by Chairman Day at 12:30 p.m. with all members present except Representative Brand.

HOUSE BILL NO. 279

REPRESENTATIVE ROBERT ELLERD, Chief Sponsor, introduced the bill. This bill would exempt livestock from the implied warranties of the Uniform Commercial Code. "I feel that livestock should be exempt because of several instances where cattle were sold, passed inspection, and two years later the buyer comes up with brucellosis in his herd. If this cow happens to be a reactor there is cause for a lawsuit."

There are many cases on record in courts today of similar cases.

"I have only asked one person to testify on the bill." He then introduced Representative Jack Ramirez.

JACK RAMIREZ stated that Representative Ellerd covered the bill well and if the committee should have any legal question he would be happy to answer them.

BILL ASHER, Agricultural Preservation Association, rose in support of the bill.

MONS TEIGEN, Montana Stockgrowers and Montana Woolgrowers Association, stated that these organizations were in support of this legislation.

"As you know livestock is a big industry in Montana. So far we have not had any problems but from what we hear there is a good chance and a need for this legislation."

EDITH COX, Park County Legislative Association, rose in support of the bill.

Chairman Day asked Representative Dassinger to assume the Chair.

REPRESENTATIVE WILLIAM M. DAY, stated that this problem had come up and for the sellers protection, after the inspection, Representative Ellerd agreed to sponsor this bill. "I urge the committee's support."

Chairman Day resumed the Chair.

REPRESENTATIVE ELLERD closed by stating that he felt the farmer, rancher, and markets needed this protection.

Questions were asked by the committee and the hearing on House Bill No. 279 was closed.

HOUSE BILL NO. 101

REPRESENTATIVE JOHN VINCENT, Chief Sponsor, introduced the bill. He passed out information for the committee to observe before starting his presentation. (material attached)

"I view this as an educational bill; if we have a problem or not in Montana, at least we will know more than before. I am sure the question of legality and the inherent rights of the individual will be addressed. I want the committee to be aware of this as I am."

In 1978 the Missouri Legislature passed a bill dealing with alien ownerships. This bill has been drafted from that bill.

This bill limits the non-residents to 5 acres or less. It does not apply to those owning land on or before July 1, 1979, or those that have become citizens of the United States. Five states have major alien restrictions, eight states have minor restrictions, and fourteen states, Montana included, have very vague, if any restrictions.

"I would appreciate careful consideration of this piece of legislation."

PROPOSERS:

RON DEYONG, representing himself as a farmer, stated that it is difficult enough for a young person to get started in the farming business without having to compete against foreign entities. They are causing the price of the land to go up for the local farmer. This causes the local farmer from being able to purchase the land. "I believe that an ounce of prevention is worth a pound of cure."

CHRIS JOHANSEN, Montana Farmers Union and National Farm Organization, stated that both of these organizations agree that it would not be in our best interest to let aliens purchase our agricultural lands.

OPPOSERS:

SHARON PETERSON, WIFE, gave an example, in her area, of a rancher who was selling his ranch and asked all the neighboring ranchers if they would like to purchase it. After figuring their finances they decided they could not afford to purchase the ranch. "We later received a call from that rancher asking us if we would be will to farm the place for a German family that wanted to buy it?" "I feel the passage of this bill would have prevented this person from selling his ground to these people, infringing upon his personal rights."

ZACK STEVENS, Farm Bureau, stated that he had traveled the state for one week asking people how they felt about having restrictions on who they could sell their land to. Over 90% testified that they did not want any restrictions put on them. Also, we must remember that on the highline some Montana people own land in Canada.

MONS TEIGEN, Montana Stockgrowers and Montana Woolgrowers Association, stated they were in opposition to the bill because of its restrictive nature. "I feel our problem is the economy and we should spend our time looking into that. We should consider the lands that the U.S. Forest Service and the Bureau of Land Management hold in the State of Montana."

GENE SPILDE, S.G.P.A., and EDITH COX, Park County Legislative Association, stood in opposition of the bill.

TOM HONZEL, Montana Association of Realtors, stated that this was a constitutional question. In 1953 the alien law was ruled unconstitutional.

DON ALLEN, Montana Petroleum Association, stated that last fall Congress passed a law that all aliens have to register all the land that they buy. "I understand the need for information on the lands and the recording of the land bought, but I think this piece of legislation is an over-reaction and we would be going too far at this time by passing this bill."

He stated that the Shell Oil Company paid 4.6 million dollars in taxes last year. They are partially owned by foreign entities.

CLIFF CHRISTIAN, Montana Association of Realtors, stated that there were only three alien agricultural owners in Montana. They are located in the Livingston, Silver Bow, and Missoula areas.

BILL BRITZIUS, Montana Realtors Association, stated that it was a person's inherent right to sell his land to whom ever he pleased. Attached is material on foreign investments in agricultural lands; that he submitted.

TOM HARRISON, Shell Oil Company, submitted an amendment that this section would not apply to any ownership or leaseholder of agricultural land by non-resident aliens or foreign businesses acquired prior to July 1, 1979; to leases granting the right to explore for and produce minerals from the land; to mineral or royalty interests; to easements and tracts of land acquired in connection with the extraction, refining, processing or transportation of minerals; or to any lands located within the boundaries of any incorporated city, town or village. (amendments attached)

BILL ASHER, Agricultural Preservation Association, went on record as being opposed to this legislation.

REPRESENTATIVE VINCENT closed by stating that a lot had been said here today and we will all benefit if this bill is passed or not. "I do not feel this was relevant to BLM land or Forest Service Land."

The Missouri bill has been in effect for one year now. So far there has not been any question of legality.

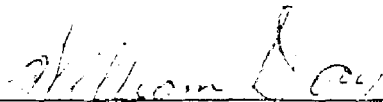
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Questions were asked by the committee and the hearing on House Bill No. 101 was closed.

EXECUTIVE SESSION:

HOUSE BILL NO. 279

Representative Ellerd moved, DO PASS. The motion was carried unanimously.
The meeting was adjourned at 2:05 p.m.



William M. Day, Chairman

Judy J. Mook, Secretary

HOUSE BILL NO. 279

INTRODUCED BY ELLERD, CONROY

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(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond

the description on the face hereof."

(3) Notwithstanding subsection (2):

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and

(c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade; and

~~(d) in sales of cattle, hogs, sheep and horses, there is ARE no implied warranties, as defined in this chapter, that the cattle, hogs, sheep, or horses are free from sickness or disease.~~

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-End-